

THE ORGANIZATION, POWERS AND DUTIES OF LOCAL BOARDS OF HEALTH.

The State Board of Health invites the attention of Local Boards of Health in Towns, Villages and Cities to this recently amended statute, defining the powers and duties of Local Sanitary Officers.

AN ACT for the Preservation of the Public Health.

[The amendment in 1881, chapter 431, Session Laws, is here printed in italics.]

§ 1. It shall be the duty of the common council of every city *in this state, except in the cities of Brooklyn, New York, Yonkers and Buffalo, which are hereby excepted from the operation of this act, to appoint a board of health for such city to consist of six persons who are not members of said council, and who shall be appointed as follows: Two persons for a term of one year; two persons for a term of two years; and two persons for a term of three years; (one of whom, at least, shall be a competent physician).* The mayor of such city shall be a member *ex officio* of such board of health, and shall be president thereof. The said board of health, when duly organized, shall appoint a competent physician (not a member of such board) who shall be health officer for such city. This section shall not be construed to remove any of the existing boards of health in any of the cities of this state, but the successors of such boards shall be appointed as in this section provided. Upon the expiration of the term of office of any member of the board of health, appointed as herein provided, his successor shall be appointed by such common council for the term of three years, and the said common council shall also have power to fill any vacancy caused in such board of health by the death, resignation or removal from the city of any member thereof. And it shall be the duty of the trustees of every incorporated village *in this state in which there is not now a board of health duly organized, to appoint once in each year a board of health for such village, to consist of not less than three nor more than seven persons (who are not village trustees), who shall hold office for one year, or until their successors shall have been appointed, from which board shall be elected a president and secretary; and the said board of health thus constituted shall appoint a competent physician to be the health officer of such village, who shall not be a member of said board of health.*

§ 2. The supervisor and justices of the peace and the town clerk, or a majority of them, of each town *in this state, together with a citizen of such town, of full age to be elected by them, shall be the board of health for such town for each year, and they shall appoint some competent physician not a member of said board, to be the health officer for such town. They shall have cognizance of the causes of injury or danger to the public health, and shall meet upon call of the supervisor. Also, whenever in the judgment of the state board of health, or (if the said board be not in session), of the president and secretary thereof, it shall be necessary, and the public good requires it, the supervisor of such town upon reasonable notice being given him from the state board of health, or its president and secretary, shall immediately convene the town board of health, by notice to the members thereof, to take such proceedings as the public health in that vicinity may require, and concerning which it shall have been notified by the state board of health, or by its president and secretary. And in any case in which the term for which the board of health of any village or city heretofore appointed shall have expired, or in any case in which a member or several members of a board of health of any town, village or city in this state, shall resign or cease to act officially, so that less than the statutory number of members of said board continue to be members thereof, then it shall be the duty of the county judge of the county in which such town, village or city is situated, or of an adjacent county upon being satisfied that such term has expired or that such vacancy or vacancies exist, to appoint in writing a competent citizen or citizens, as the case shall require to fill such vacancy or vacancies, and to perform the duties of said office within the time specified, and until the said town, village or municipal government shall have elected or appointed the member or members, who shall, according to law, perform such official duties in the said board of health. The written appointment to a board of health, made by a county judge under this section shall forthwith be filed in the office of the clerk of the county in which said board of health is located. Any violation of the provisions of this section or of any lawful instruction of said state board of health shall be a misdemeanor.*

§ 3. The several boards of health now organized in any city, village or town in this state (*except in the cities of New York, Yonkers, and Brooklyn and Buffalo*), and the several boards of health constituted under this act as amended, shall have power and it shall be their duty:

(1.) To meet in their respective cities, villages and towns and fix and determine the period of quarantine to which vessels, vehicles, or persons arriving in such city, village or town shall be subject; but the said board shall have power, after an examination, to reduce the period of quarantine of such vessel, vehicles or persons, if they deem it safe to do so.

Prescribed duties of health officer. (2.) To prescribe the duties and powers of the health officer; to direct him from time to time in the performance thereof, and to fix the compensation he shall receive.

Powers to regulate quarantine, etc. (3.) To make orders and regulations in their discretion concerning the place and mode of quarantine, the examination and purification of vessels, boats and other craft not under quarantine; the treatment of vessels, articles or persons thereof; the regulation of intercourse with infected places; the apprehension, separation and treatment of emigrants and other persons who shall have been exposed to any infectious or contagious disease; the suppression and removal of nuisances, and all such other orders and regulations as they shall think necessary and proper for the preservation of the public health.

To regulate isolation of and intercourse with infected persons and places. (4.) To regulate and prohibit or prevent all communication or intercourse with all houses, tenements and places, and the persons occupying the same, in which there shall be any person who shall have been exposed to any infectious or contagious disease.

(5.) Such board of health shall have power, and it shall be its duty, to receive and examine into the nature of complaints made by any of the inhabitants, concerning causes of danger, or injury to the public health within the limits of its jurisdiction; also to report to the state board of health, promptly, facts which relate to infectious and epidemic diseases within said jurisdiction, and to require such isolation and quarantining of persons, vessels and sources of infection, as shall be in its judgment necessary; also to release from such isolation or quarantine, such persons, vessels and things, as it shall deem safe so to release; but upon ordering such quarantining or isolation, or such release from the same, said board and its health officers shall make a record of the facts in the case, and of the reasons for the action taken. It shall also be the duty of the said local board to procure suitable places for the reception of persons, and things infected with malignant, contagious or infectious diseases, and in all cases where sick persons cannot otherwise be provided for, to procure for them medical, and other attendance and necessaries; and it

To provide public vaccination. shall be the duty of every such board of health to take cognizance of, and report, every case of small-pox or varioloid, occurring within said board's jurisdiction, also to make all needful provisions for immediately obtaining the necessary means

for thorough and safe vaccination of all persons within the said jurisdiction who may need the same. It shall also be the duty of the board of health in each town, village and city in

The Board, supervision and duty of registration of vital statistics. this state, to have the supervision of the registration of deaths, diseases and the causes of death, and by its appointed officers, to examine all certificates and records of death, and findings of coroner's juries, and to designate the persons who shall grant permits for the burial of the dead, and to prescribe sanitary regulations for such burials, and it shall be the duty of every such board of health to supervise and make complete the registration of births, deaths and marriages within the limits of its jurisdiction,

The cost per record not to exceed fifty cents. and in so completing the said registration the cost thereof shall be a charge upon such town, village or city, and shall not exceed fifty cents for each completely verified and registered record of a birth, death or marriage, but the town clerks

and the registering clerks provided by law in villages and cities may still keep all records of births, deaths and marriages as required by chapter five hundred and twelve, laws of eighteen hundred and eighty.

Orders and regulations to be published. (6.) To publish from time to time all such orders and regulations of general obligation as they shall have made, in such manner as to secure early and full publicity thereto; and to make, without publication thereof, such orders and

regulations in special or individual cases, not of general application, as they may see fit, concerning the suppression and removal of nuisances, and concerning all other matters in their judgment detrimental to the public health, and to serve copies thereof upon any occupant or occupants of any premises whereon any such nuisances or other matters aforesaid shall exist, or by posting the same in some conspicuous place on such premises.

(7.) To issue warrants to any constable of their respective cities, villages or towns, to apprehend and remove such persons as cannot otherwise be subjected to the orders and regulations by them adopted; and, whenever it shall be necessary to do so, to issue their warrant to the sheriff of their respective counties to bring to their aid the power of the county; all which warrants shall be forthwith executed by the officers to whom they shall be directed, who shall possess the like powers and be subject to the like duties in the execution thereof, as if the same had been duly issued out of any court of record in this state.

(8.) To employ all such persons as shall be necessary to enable them to carry into effect the orders or regulations they shall have adopted, published and made, and the powers vested in them by this act, and to fix their compensation.

(9.*.) To impose penalties for the violation of, or non-compliance with, their orders and regulations, and to maintain actions in any court of record to collect such penalties, not exceeding one hundred dollars in any one case, or to restrain by injunction such violations, or otherwise to enforce such orders and regulations.

§ 4.† Every person who shall willfully violate or refuse to obey any order or regulation so made and published, or any order so made and served, or posted as aforesaid, shall be deemed guilty of a misdemeanor, and on conviction thereof, or ; penalty shall be subject to fine or imprisonment, or both, in the discretion of the court, such fine not to exceed one thousand dollars nor such imprisonment two years. And in any case of non-compliance with any order or regulation which shall have been so served or posted, as provided in subdivision six of section three of said act as hereby amended, the said board or its servants or employees may lawfully enter upon any premises to which such order or regulation relates, and suppress or remove the nuisance or to enter upon other matters in the judgment of said board detrimental to the public health mentioned in such order or regulation, and any other nuisance or matter of the description aforesaid found there existing; and the expense thereof shall be a charge upon the occupant or any or all the occupants of said premises, and may be sued for and recovered with costs by said board in the name of such board in any court having jurisdiction. Whenever execution upon any judgment so obtained shall have been returned wholly or in part unsatisfied, said judgment, for the amount so unsatisfied, shall be a lien upon said premises, having preference over all other liens or incumbrances whatsoever. But in order to acquire such lien, such judgment, if in a court not of record, shall first be a lien upon the judgment to be a lien upon the premises. And whenever any lien upon any premises shall have been docketed in the same place and manner as by law now required to make judgments in such courts liens upon real estate. And whenever any lien upon any premises shall have become fixed as aforesaid, the said board may cause the said premises to be sold at public auction, for a term of time, for the payment and satisfaction of such sale, giving notice of such sale for twelve weeks successively, once in each week, in one or more newspapers, published in the city, incorporated village or town where the premises are situated, as the case may be; or if no newspaper be published in such village or town, then in the newspaper published nearest said premises, and also serving a copy of such notice of sale personally on the owner or agent of said premises, if known, and a resident of said city, village or town, at least fourteen days previous to such sale, or by depositing the same in the post-office, directed to such owner or agent at his place of residence, if known, or the nearest post-office thereto,

* Added by § 1, chapter 559, Laws of 1870.

† As amended by chapter 790, Laws of 1867. Only when the regulation has been made and published can conviction be had for its violation. *Reed v. People*, 1 Park, Cr. R. p. 481.

at least twenty-eight days previous to such sale. And the said premises shall be sold to the person who shall offer to take the same for the shortest time, paying the amount remaining unpaid upon such judgment, with interest, and the expenses of such notice sale. A certificate of such sale, signed by the president and countersigned by the secretary of such board shall thereupon be made and delivered to the purchaser, and may be recorded in like manner and with like effect as deeds of conveyance of lands, and thereupon the purchaser, his heirs or assigns, shall be entitled to the possession of said premises so sold as aforesaid, and if unoccupied may immediately enter, and if occupied may have remedy against any occupant by action or by summary proceedings, as against a tenant holding over after expiration of his term; and in case the costs of such action or proceeding shall not be collected by such purchaser of the defendant therein, the same shall be a lien upon said premises, having the like preference as the lien aforesaid, and the term of the said purchaser shall be extended during a time bearing the same proportion to the original term as the amount of such cost bears to the amount paid by such purchaser on such sale. And such term shall commence when such purchaser shall have acquired possession. At any time after such sale, and within six months after the recording of such certificate as aforesaid, the owner or any lienor or incumbrancer of such premises, or of any part thereof, may redeem by paying to the purchaser the amount paid by him on such sale, and all costs and expenses he may have incurred in any action or proceeding as aforesaid to obtain possession, with ten per cent interest thereon. If such redemption be made by the owner, the right of the purchaser shall be extinguished; and if such lienor or incumbrancer, the amount paid by him to redeem shall be added to his lien or incumbrance, or if he have more than one, to the oldest, and shall thenceforth partake of the nature thereof and be collectible by any remedy adapted thereto.

Expenses of Boards of Health to be a town, village or city charge; how audited and paid.

§ 5* All expenses incurred by the several boards of health in the execution and performance of the duties imposed by this act shall be a charge only on their respective cities, villages and towns; and shall be audited, levied, collected and paid in the same manner as other city, village and town charges are audited, levied, collected and paid.

Persons sick of infectious disease may be removed from county poor-house. supported at such poor-house, the superintendent of such county poor-house shall have power to cause the person supported at such poor-house, or any of them, to be removed to such other suitable place in the same county as shall be designated by the board of health of the city, town or village within which such poor-house shall be, there to be maintained and provided for at the expense of the county, with all necessary medical care and attendance, until they shall be safely returned to the county poor-house from which they were taken, or otherwise discharged.

Village Boards and Villages not to be taxed to support town sanitary improvements, nor towns to support Village Boards of Health and their works.

§ 6. Whenever any pestilence, or infectious or contagious disease shall exist in any county poor-house in this State, or in the vicinity of any such county poor-house, and the physician of such county poor-house shall certify that such pestilence or disease is likely to endanger the health of the persons supported at such poor-house, the superintendent of such county poor-house shall have power to cause the person supported at such poor-house, or any of them, to be removed to such other suitable place in the same county as shall be designated by the board of health of the city, town or village within which such poor-house shall be, there to be maintained and provided for at the expense of the county, with all necessary medical care and attendance, until they shall be safely returned to the county poor-house from which they were taken, or otherwise discharged.

§ 7. In any instance in which there is a legally organized board of health in an incorporated village, which comprises parts of several towns, or less than a whole town, such board of health shall have full authority in regard to all matters relating to public health within said village, and such village which has its own organized board of health shall not be subject to the sanitary regulations or health officers of the township or towns within which such village is located; nor shall the taxable property of any such village, while maintaining its own board of health be subject to taxation for maintaining any town board or boards of health, or for any expenditures authorized by such town boards; but such expenditures of the town boards of health shall be assessed and collected exclusively on property in the town outside of said village.

§ 8. All acts and parts of acts inconsistent with this act are hereby repealed.

* As amended by chapter 761, Laws of 1868.